

Origin and Development of National Human Rights Institutes: Global Overview

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Abstract – The United Nations embarked on an effort to find procedures that may aid it in successfully fulfilling its aim of human rights protection and promotion. However, it was in 1946 that the United Nations Economic and Social Council (ECOSOC) requested that Member States consider the "desirability of establishing information groups or local Human Rights Committees within their respective countries to collaborate with them in furthering the work of the Commission on Human Rights." [1] In 1960, the ECOSOC recognised the distinct role that National Institutions could play in the protection and promotion of Human Rights through a resolution, and invited governments to encourage the formation and continuation of National Human Rights Institutions (NHRIs) in their respective countries. Later, in September 1978, the Commission on Human Rights convened a seminar in Geneva to develop a set of principles for the roles that NHRIs may perform. These rules have been adopted by the Commission on Human Rights and the United Nations General Assembly. [2] Since 1980, the United Nations has taken measures to actively participate in the project of creating NHRIs. The Secretary General of the United Nations prepared a series of reports on the subject, and his efforts culminated in a Workshop by the Commission on Human Rights in 1990 with the goal of reviewing patterns of cooperation between National and International Institutions and examining the factors that could result in improving the effectiveness of NHRIs. The outcome of this Workshop's deliberations is known as the "Paris Principles" of 1991. In 1992, the United Nations Commission on Human Rights endorsed these. The importance of NHRIs was also acknowledged in the Vienna Declaration and Programme of Action issued at the conclusion of the World Conference on Human Rights in Vienna in 1993. The United Nations General Assembly supported the same in its resolution 48A/134 of December 20, 1993. The "Paris Principles" give extensive advice and direction not just for the establishment of NHRIs, but also for the functions and principles that NHRIs must follow in order to function successfully.

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Independent National Human Rights Institutions (NHRIs) play an important and active role in developing democratic institutions and fostering good governance both within and between states. NHRIs are the principal means of converting international principles and standards into a local human rights culture. It goes without saying that human rights are best protected when they are embedded in local culture, and international human rights norms are best enforced when they are incorporated into national legislation and promoted via national institutions. Effective domestic human rights protection necessitates the existence of National Human Rights Institutions to ensure:

- (a) State adherence to human rights treaties;
- (b) Implementation of international human rights obligations in domestic law; and

- (c) Creating awareness about human rights and assisting in the spread of human rights education.
- (d) Effective and accessible State institutions, such as NHRIs, where individuals may seek remedy for human rights violations;
- (e) A sensitive human rights NGO community or human rights defenders; and a population with a strong human rights culture.

The international community is becoming more aware of the relevance of NHRIs. A NHRI is defined as "a body established by a government under the Constitution, or by law or decree, the functions of which are specifically defined in terms of the promotion and protection of human rights" in the United Nations Centre for Human Rights

Handbook on the Establishment and Strengthening of National Institutions for the Promotion and Protection of Human Rights.[3] Although courts play an essential role in defending individuals' human rights against the State, they also perform numerous other judicial tasks that are not often included in the idea of the NHRI as it is currently understood.

The UN has also increased its advisory services to governments and greatly expanded its technical cooperation programmes within the broader framework of promoting democracy, development, and human rights, thereby strengthening states' capacity to promote and protect human rights within their jurisdictions.

The programmes, which are overseen by the Office of the High Commissioner for Human Rights, are aimed at countries in transition to democracy as well as developing nations in need of technical assistance in creating National Human Rights institutions. It is also worth noting that the relevant United Nations Office has placed a strong focus on capacity building and technical assistance to support the formation and operation of NHRIs, notably via the development and execution of comprehensive national plans of action. These plans define national objectives for human rights promotion and protection. Regional and international organisations have also acknowledged the importance of NHRIs. Recently, the United Nations Commission on Human Rights, in its Resolution on National Institutions for the Promotion and Protection of Human Rights at its 58th Session, supported this notion by emphasising that "national institutions have a potentially crucial role to play in promoting and ensuring the indivisibility and interdependence of all human rights." It urged all states to "ensure that all human rights are adequately represented in the mandates of their NHRIs when created."

Because of historical, political, cultural, social, and economic considerations, there is now a significant diversity in the form and quantity of NHRIs within and among nations. It has been observed that the terminology typically used for NHRIs is either the 'Ombudsman,' as in Sweden, or 'Human Rights Commissions,' as in Australia, New Zealand, India, and Sri Lanka, or 'Truth and Reconciliation Commissions,' as in South Africa.[4] A body like this is either established by the legislative, the executive department of government, or any mixture of the two in a specific country's Constitution.

Because these organisations are anchored in their local culture, their primary goal is to monitor the functioning of governments from inside and urge them to fulfil their treaty responsibilities under the human rights treaties. Whatever the manner of organisation and its composition, the following are important components of an effective NHRI:

- Independence;

- Mandate and powers;
- Accountability and relationships with other institutions; and
- Accessibility.

It is a well-known truth that an effective national institution is one that is capable of functioning independently of the government, party politics, and any other organisations and situations that may have an impact on its operation.

NHRIs are not anti-government organisations. They serve as intermediaries. Indeed, the NHRI's mandate should be wide enough to advise the government on all human rights issues and policies. A typical national organisation should have financial autonomy and independence, as well as a comprehensive mandate to safeguard and promote human rights, having jurisdiction over all categories of human rights and including all public and private actors. NHRIs are only advisory or recommendatory organisations. They are not adjudicators; that duty is reserved for courts of law or tribunals with judicial or quasi-judicial powers. The NHRIs must recognise their public accountability and review the efficacy of their activities on a regular basis. They must be open and honest about their operations.

Terrorism has taken on a sinister dimension, and the terrorist threats we are now facing are unprecedented on a global scale. Counter-terrorism measures must be effective, but it must be remembered that because the fundamental rationale of anti-terrorism measures is to protect human rights and democracy, counter-terrorism measures must not undermine democratic values, violate human rights, or undermine the Rule of Law. Terrorism must be combated in accordance with international human rights responsibilities and the fundamental principles of the Rule of Law. The State cannot declare war on people's civil freedoms in the battle against terrorism. The degree of human rights awareness cannot be abandoned in the battle against terrorism. The essential work of establishing a fair balance between security concerns and human rights must be completed, and the necessity for proportionality must not be overlooked. It should serve as a warning that in times of crisis, the shield of need and national security should not be utilised to restrict individuals' civil freedoms.

The NHRI must maintain continual vigilance and urge concerned governments against restricting individuals' civil freedoms by implementing draconian legislation that violate human rights. Coordination with non-governmental organisations and human rights defenders NHRIs must develop and maintain relationships with civil society to guarantee that public issues and objectives are

addressed in institutional activity in order to increase public legitimacy. Human Rights Defenders are those who, alone or in collaboration with others, organisations, or institutions, work to promote and safeguard human rights. They operate on a local, national, regional, and worldwide scale.[5]

The United Nations General Assembly approved a Declaration on the Rights and Responsibilities of Individuals, Groups, and Organs of Society in 1998, with the goal of promoting and protecting internationally recognised human rights and fundamental freedoms. This Declaration is also known as the Human Rights Defenders Declaration. It was designed to safeguard Human Rights Defenders against attacks on their rights by government or non-state entities.

It is no secret that in many countries, Human Rights Defenders confront organisational obstacles in their work, whether via legislation or otherwise. They confront a threat to their fundamental rights, such as the right to free expression and a fair trial. Human Rights Defenders have even been slain in certain nations as a result of their efforts. Despite the Declaration's recognition of the importance of their function in different paragraphs, the UN Declaration has failed to provide enough protection for them.

As a result, it is the obligation of National Human Rights Institutions to guarantee that Human Rights Defenders may advocate and safeguard human rights without jeopardising their own rights. The 'Paris Principles Method of Operation' emphasised the need of maintaining communication between NHRIs and other institutions and non-governmental organisations active in the promotion and protection of human rights. However, our experience has shown that many NGOs and Human Rights Defenders focus just on civil and political rights, disregarding people's economic, social, and cultural rights.[6] To be effective and serve the cause of human rights protection, as well as to assist NHRIs in carrying out their functions, NGOs must also function and work for the protection and promotion of economic, social, and cultural rights, because in order to enjoy civil and political rights, economic, social, and cultural rights must be properly promoted. This is something that Human Rights Defenders should think about.

Indeed, as previously stated, the NHRIs must solidly support Human Rights Defenders in the discharge of their functions and provide them with protection against any violation of their rights; it is equally important for Human Rights Defenders to fully support the NHRIs so that the NHRIs can discharge their basic obligations of protecting and promoting citizens' human rights and fundamental freedoms. They must also examine their roles and hold themselves accountable.

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